

HOUSE BILL 801

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C2
SB 523/02 - EHE

2003 Regular Session
3r2405
CF SB 221

By: **Delegate Minnick**

Introduced and read first time: February 7, 2003

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Nonresident Real Estate Brokers - Commercial Real Estate - Reciprocity**

3 FOR the purpose of adding a new part to a certain subtitle of the Business
4 Occupations and Professions Article; requiring a nonresident real estate broker
5 to meet certain conditions in order to engage in a commercial real estate
6 transaction in this State; requiring a certain written application to be submitted
7 to the State Real Estate Commission before a nonresident real estate broker
8 may provide services; requiring a nonresident real estate salesperson to meet
9 certain conditions in order to provide certain real estate services in this State;
10 establishing a fee for a temporary license; imposing certain reciprocity
11 requirements; allocating certain trust money to be received and deposited in a
12 certain fund; designating the Executive Director of the State Real Estate
13 Commission as the agent for certain real estate brokers and salespersons with
14 regard to a subpoena, summons, or other process; defining certain terms; and
15 generally relating to nonresident real estate brokers.

16 BY adding to
17 Article - Business Occupations and Professions
18 Section 17-536 through 17-540, inclusive, to be under the new part "Part IV.
19 Nonresident Commercial Real Estate Brokers"
20 Annotated Code of Maryland
21 (2000 Replacement Volume and 2002 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Business Occupations and Professions**

25 **PART IV. NONRESIDENT COMMERCIAL REAL ESTATE BROKERS.**

26 17-536.

27 (A) IN THIS PART IV OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE
28 MEANINGS INDICATED.

1 (B) "COMMERCIAL REAL ESTATE" MEANS:

2 (1) REAL PROPERTY IMPROVED BY FIVE OR MORE SINGLE-FAMILY
3 UNITS;

4 (2) IMPROVED AND UNIMPROVED REAL PROPERTY ZONED FOR
5 COMMERCIAL, INDUSTRIAL, OR NONRESIDENTIAL USE BY THE LOCAL ZONING
6 AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH THE PROPERTY IS
7 LOCATED; AND

8 (3) UNIMPROVED REAL PROPERTY ZONED FOR IMPROVEMENT AS
9 MULTIFAMILY UNITS BY THE LOCAL ZONING AUTHORITY OF THE COUNTY OR
10 MUNICIPALITY IN WHICH THE PROPERTY IS LOCATED.

11 (C) "COMMERCIAL REAL ESTATE" DOES NOT INCLUDE:

12 (1) PROPERTY ZONED FOR AGRICULTURAL USE; OR

13 (2) SINGLE-FAMILY UNITS, INCLUDING A CONDOMINIUM OR CO-OP
14 UNIT, FOR SALE OR FOR LEASE, OR OTHERWISE CONVEYED OR TO BE CONVEYED ON
15 A SINGLE BASIS.

16 (D) "NONRESIDENT REAL ESTATE BROKER" MEANS AN INDIVIDUAL,
17 PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY COMPANY, LIMITED LIABILITY
18 PARTNERSHIP, OR CORPORATION THAT IS NOT LICENSED UNDER SUBTITLE 3 OF
19 THIS TITLE BUT IS LICENSED TO PROVIDE REAL ESTATE BROKERAGE SERVICES IN A
20 JURISDICTION OTHER THAN THIS STATE.

21 (E) "NONRESIDENT REAL ESTATE SALESPERSON" MEANS AN INDIVIDUAL
22 WHO IS NOT LICENSED UNDER SUBTITLE 3 OF THIS TITLE BUT IS LICENSED TO
23 PROVIDE REAL ESTATE BROKERAGE SERVICES AND IS AFFILIATED WITH A
24 NONRESIDENT REAL ESTATE BROKER.

25 17-537.

26 (A) A NONRESIDENT REAL ESTATE BROKER MAY ENGAGE IN A TRANSACTION
27 UNDER THIS TITLE WITH RESPECT TO COMMERCIAL REAL ESTATE LOCATED IN THIS
28 STATE AND RECEIVE COMPENSATION PROVIDED THE NONRESIDENT REAL ESTATE
29 BROKER:

30 (1) PROVIDES REAL ESTATE BROKERAGE SERVICES THROUGH A REAL
31 ESTATE BROKER LICENSED UNDER THIS TITLE;

32 (2) ENTERS INTO A WRITTEN AGREEMENT WITH A LICENSED REAL
33 ESTATE BROKER IN THIS STATE WHICH:

34 (I) SPECIFIES THE TERMS OF COOPERATION AND COMPENSATION
35 AND INCLUDES A STATEMENT BY THE NONRESIDENT REAL ESTATE BROKER THAT
36 THE NONRESIDENT REAL ESTATE BROKER AND THE NONRESIDENT REAL ESTATE

1 SALESPERSONS LICENSED AND AFFILIATED WITH THE NONRESIDENT REAL ESTATE
2 BROKER WILL BOTH ADHERE TO THE LAWS OF THIS STATE AND THIS TITLE; AND

3 (II) ALLOCATES THE RESPONSIBILITY FOR THE ACTIONS OF THE
4 NONRESIDENT REAL ESTATE BROKER IN THE TRANSACTION; AND

5 (3) COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (B) OF THIS
6 SECTION.

7 (B) BEFORE A NONRESIDENT REAL ESTATE BROKER MAY PROVIDE REAL
8 ESTATE BROKERAGE SERVICES IN THIS STATE, THE NONRESIDENT REAL ESTATE
9 BROKER SHALL MAKE WRITTEN APPLICATION TO THE COMMISSION INCLUDING:

10 (1) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
11 NONRESIDENT REAL ESTATE BROKER;

12 (2) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE BUSINESS
13 ENTITY THROUGH WHICH THE NONRESIDENT REAL ESTATE BROKER PROVIDES
14 REAL ESTATE BROKERAGE SERVICES;

15 (3) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH
16 NONRESIDENT REAL ESTATE SALESPERSON WHO WILL OFFER OR PROVIDE REAL
17 ESTATE BROKERAGE SERVICES IN THIS STATE ON BEHALF OF THE NONRESIDENT
18 REAL ESTATE BROKER;

19 (4) A COPY OF THE AGREEMENT REQUIRED BY SUBSECTION (A) OF THIS
20 SECTION;

21 (5) WRITTEN EVIDENCE THAT THE NONRESIDENT REAL ESTATE
22 BROKER AND EACH NONRESIDENT REAL ESTATE SALESPERSON LISTED UNDER
23 PARAGRAPH (3) OF THIS SUBSECTION, ARE DULY LICENSED IN ANOTHER
24 JURISDICTION, AND THAT THE LICENSE IS VALID, CURRENT, AND ACTIVE;

25 (6) WRITTEN CONSENT SIGNED BY THE NONRESIDENT REAL ESTATE
26 BROKER, INDIVIDUALLY AND ON BEHALF OF THE BUSINESS ENTITY, AND BY EACH
27 NONRESIDENT REAL ESTATE SALESPERSON LISTED UNDER PARAGRAPH (3) OF THIS
28 SUBSECTION, THAT SERVICE OF PROCESS ON THE EXECUTIVE DIRECTOR OF THE
29 COMMISSION SHALL BIND THE APPLICANT IN ANY ACTION, SUIT, OR PROCEEDING
30 BROUGHT AGAINST THE BROKER OR SALESPERSON;

31 (7) WRITTEN CONSENT SIGNED BY THE NONRESIDENT REAL ESTATE
32 BROKER AND BY EACH NONRESIDENT SALESPERSON LISTED UNDER PARAGRAPH (3)
33 OF THIS SUBSECTION, TO SUBMIT TO THE JURISDICTION OF THE COMMISSION FOR
34 THE PURPOSES OF DISCIPLINARY ACTION UNDER § 17-322 OF THIS TITLE;

35 (8) ANY OTHER INFORMATION THAT IS REQUESTED BY THE
36 COMMISSION; AND

37 (9) A TEMPORARY LICENSE FEE OF \$45.

1 (C) THE COMMISSION SHALL ISSUE A TEMPORARY LICENSE TO A
2 NONRESIDENT REAL ESTATE BROKER WHO COMPLIES WITH THE REQUIREMENTS OF
3 THIS SECTION IF THE JURISDICTION IN WHICH THE REAL ESTATE BROKER HOLDS A
4 CURRENT LICENSE ALLOWS A MARYLAND BROKER TO OBTAIN A TEMPORARY
5 LICENSE UNDER SIMILAR CIRCUMSTANCES.

6 17-538.

7 (A) UPON APPROVAL BY THE COMMISSION, A NONRESIDENT REAL ESTATE
8 BROKER MAY ENGAGE IN A TRANSACTION IN THIS STATE WITH RESPECT TO
9 COMMERCIAL REAL ESTATE.

10 (B) A NONRESIDENT REAL ESTATE SALESPERSON LICENSED IN ANOTHER
11 JURISDICTION AND AFFILIATED WITH A NONRESIDENT REAL ESTATE BROKER MAY
12 ENGAGE IN A TRANSACTION IN THIS STATE WITH RESPECT TO COMMERCIAL REAL
13 ESTATE IF:

14 (1) THE NONRESIDENT REAL ESTATE SALESPERSON IS LICENSED WITH
15 AND PROVIDES REAL ESTATE BROKERAGE SERVICES UNDER THE DIRECT
16 SUPERVISION OF THE NONRESIDENT REAL ESTATE BROKER;

17 (2) THE NONRESIDENT REAL ESTATE BROKER SATISFIES THE
18 REQUIREMENTS OF § 17-537 OF THIS SUBTITLE; AND

19 (3) THE NONRESIDENT REAL ESTATE SALESPERSON PROVIDES REAL
20 ESTATE BROKERAGE SERVICES IN THE NAME OF THE NONRESIDENT REAL ESTATE
21 BROKER.

22 17-539.

23 ALL TRUST MONEY PAID ON ACCOUNT OF A TRANSACTION INVOLVING
24 COMMERCIAL REAL ESTATE IN THIS STATE SHALL BE RECEIVED AND DEPOSITED IN
25 THE TRUST ACCOUNT OF THE MARYLAND BROKER IN ACCORDANCE WITH PART I OF
26 THIS SUBTITLE.

27 17-540.

28 BY FILING THE WRITTEN CONSENT REQUIRED UNDER § 17-537(B)(6) OF THIS
29 SUBTITLE, THE NONRESIDENT REAL ESTATE BROKER OR NONRESIDENT REAL
30 ESTATE SALESPERSON APPOINTS THE EXECUTIVE DIRECTOR OF THE COMMISSION
31 AS AGENT TO RECEIVE A SUBPOENA, SUMMONS, OR OTHER PROCESS.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2003.